

MEMORANDUM

JANUARY 14, 1993

TO: BOSTON REDEVELOPMENT AUTHORITY AND
PAUL L. BARRETT, DIRECTOR

FROM: BRIAN DE LOREY, ASSISTANT DIRECTOR FOR
ECONOMIC DEVELOPMENT
VICTOR KAREN, DEPUTY DIRECTOR FOR
ECONOMIC DEVELOPMENT

SUBJECT: CHARLESTOWN NAVY YARD, BUILDING 106

SUMMARY: This Memorandum requests that the Authority approve the assignment of Basilica Associates I Limited Partnership's rights under the Amended Ground Lease for Building 106, to Trustees of Basilica Unit Trust or their nominee, Building 106 Limited Partnership, and requests further authorization for the Director to execute and deliver a Lessor's Consent to Assignment and related instruments.

Building 106 is a brick structure along 1st Avenue, between 13th and 16th Streets in the Charlestown Navy Yard which was rehabilitated to accommodate 92 units in the mid-1980's. Nine of the units were set aside for sale to "eligible elderly individuals". Of this total, 5 were sold to the Boston Housing Authority for rental to elderly persons and 4 were sold to individuals. The remaining 83 units have been operated as rental apartments.

A Ground Lease for Building 106 was executed as of July 11, 1986, between the Authority (the "Landlord") and Basilica Associates Limited Partnership (the "Tenant") and was subsequently amended by a First Lease Amendment, dated as of December 29, 1989 (collectively, the "Amended Ground Lease").

The Tenant defaulted on its mortgage loans in 1991. By an Interim Forbearance Agreement, dated February 21, 1992, the Tenant agreed that the "Lender", the Basilica Unit Trust, on behalf of the Commonwealth's Pension Reserves Investment Management Board, would have the right, instead of foreclosing, to elect to take an assignment of the Tenant's interest in the Amended Ground Lease. This assignment was to occur at any time on or after January 4, 1993, unless the Lender and Tenant agreed to a further extension. The Lender and the Tenant have not agreed to an extension and the Lender proposes to proceed with the assignment instead of foreclosing. The Lender requests that the Authority, as Landlord, consent to the assignment of the Amended Ground Lease. The "Assignee" will be the Trustees of Basilica Unit Trust or their nominee, Building 106 Limited Partnership. In accordance with the assignment the Assignee will assume the responsibilities and rights as the Tenant. Notwithstanding the preceding, the Assignee's obligations shall be interm and limited to the

payment of Tenant's obligations under the Amended Ground Lease for such time as is reasonably required to secure new owner or Tenant. Any new owner or Tenant must be approved by the Authority and will be subject to all of the obligations of the Basilica Associates I Limited Partnership; financial or other wise, under the terms of the Amended Ground Lease.

Despite the assignment of the leasehold estate outline above, the terms of the Amended Ground Lease will remain in full force and effect. Since the proposed transfer will ensure the continued success of the development and ensure continued annual income to the Authority, it is recommended that the Authority approve the assignment of Tenant's rights under the Amended Ground Lease to Trustees of Basilica Unit Trust or their nominee, Building 106 Limited Partnership.

An appropriate vote follows:

VOTED: That the Boston Redevelopment Authority (the "Authority") hereby does approve the assignment of the Basilica Associates I Limited Partnership's (the "Basilica LP") right, title and interest in, to, under and by virtue of the Amended Ground Lease for Building 106, (as hereinafter defined) to the Trustees of the Basilica Unit Trust (the "Trustees") or their nominee, Building 106 Limited Partnership, pursuant to the terms of a certain Assignment of Lease, between the Basilica LP and the Trustees, dated February 21, 1992, or terms of any subsequent assignment instrument; provided that the terms of any subsequent assignment instrument must be acceptable to the Authority's Director in his discretion. For purposes of this vote and the following vote, the phrase "Amended Ground Lease for Building 106" shall mean the "Building 106 Lease", dated as of July 11, 1986, recorded with the Suffolk Registry of Deeds (the "Registry") at Book 12940, page 138, as amended by a "First Lease Amendment", dated as of December 29, 1989, recorded with the Registry at Book 16116, Page 080.

FURTHER

VOTED: That the Authority hereby does authorize the Director to execute a Lessor's Consent to Assignment, substantially in the form attached hereto but with such other terms and conditions he may deem necessary in this discretion, and such other instruments he may deem necessary to consent to or effectuate the assignment of the Amended Ground Lease for Building 106.

LESSOR'S CONSENT TO ASSIGNMENT

This Lessor's Consent to Assignment (this "Consent") is executed as of this ____ day of January, 1993.

RECITALS

A. The Boston Redevelopment Authority ("BRA") is landlord and Basilica Associates I Limited Partnership (the "Partnership"), a Massachusetts limited partnership, is tenant under that certain "Building 106-Lease" dated July 11, 1986, recorded with Suffolk Registry of Deeds (the "Registry") at Book 12940, Page 138, as amended through the date hereof by a certain "First Lease Amendment" between the BRA and the Partnership dated December 29, 1989, recorded with the Registry at Book 16161, Page 080 (as so amended, the "Lease"), covering certain improved premises (the "Premises") in the former Charlestown Navy Yard, Boston, Massachusetts more particularly described in the Lease.

B. David S. Kirk, Michael H. Gladstone, and Jenny Netzer, as Trustees of Basilica Unit Trust (collectively, the "Trustees"), under Declaration of Trust dated as of September 15, 1987, recorded with the Registry in Book 14117, Page 257, as amended and affected by instruments recorded with the Registry in Book 17175, Page 164 and 165, and in Book 17633, Page 253, are the present holders of a First Leasehold Mortgage and Security Agreement and a Second Leasehold Mortgage and Security Agreement encumbering, inter alia, the Partnership's interest under the Lease, each dated September 30, 1987 and recorded with the Registry in Book 14118, Pages 49 and 102, respectively (collectively, the "Mortgages"). The Trustees constitute a "Qualifying Leasehold Mortgagee" as defined in the Lease.

C. The Mortgages are in default. The Trustees, but for any written agreement of forbearance they may have extended or hereafter may extend to the Partnership, are entitled to foreclose the Mortgages and to exercise any additional rights and remedies available to the Trustees under the Mortgages and the loan documents executed and delivered in connection therewith in the event of a default thereunder.

D. The Partnership and the Trustees wish to provide, as an alternative to foreclosure, for the assignment of all of the Partnership's interests under the Lease and to the Premises to Building 106 Limited Partnership, a nominee of the Trustees to have the BRA consent to such assignment, and to have the BRA confirm certain matters in connection with such assignment as more fully set forth below, and the BRA is willing to so consent and so confirm.

CONSENT

Notwithstanding any contrary provision in the Lease or any other document governing or affecting the Premises or the rights of the parties under the Lease, the BRA does hereby (a) consent to the assignment by the Partnership to Building 106 Limited Partnership of all of the Partnership's right, title, and interest in, to, under, and by virtue of the Lease, and all of the Partnership's right, title and interest in and to the Premises including, without limitation, all of the Partnership's right, title and interest in and to any condominium units created at the Premises, and (b) confirm that upon such an assignment, Building 106 Limited Partnership shall be treated for all purposes as a Qualifying Leasehold Mortgagee which acquired its interest in the Lease by virtue of a foreclosure of either or both of the Mortgages.

IN WITNESS WHEREOF, the Boston Redevelopment Authority has caused this Consent to be executed on its behalf by Paul L. Barrett, its Director, as of the date first written above.

Approved as to form:

BOSTON REDEVELOPMENT AUTHORITY

By:

Paul L. Barrett, its
Director, hereunto
duly authorized

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. _____, 199__

Then personally appeared before me this day Paul L. Barrett, Director of the Boston Redevelopment Authority, and acknowledged the foregoing instrument as his free act and deed as said Director and the free act and deed of said Authority.

ASSIGNMENT OF LEASE

BASILICA ASSOCIATES I LIMITED PARTNERSHIP ("Partnership"), a Massachusetts limited partnership, the tenant under and by virtue of that certain lease ("Lease") known as the "Building 106-Lease" with the Boston Redevelopment Authority as landlord, dated July 11, 1986, recorded with Suffolk Registry of Deeds at Book 12940, Page 138, and covering certain improved premises in the former Charlestown Navy Yard, Boston, Massachusetts more particularly described in the Lease, for nominal consideration paid, hereby assigns, grants, transfers, and sets over to DAVID S. KIRK, AS TRUSTEE OF BASILICA UNIT TRUST ("Trustee"), under declaration of trust dated as of September 15, 1987, recorded with the Suffolk Registry of Deeds in Book 14117, Page 257, as amended and affected by instruments recorded with said Deeds in Book 17175, Pages 164 and 165, all of Partnership's right, title, and interest in, to, under, and by virtue of the Lease, and all of Partnership's right, title, and interest in and to the premises described in or otherwise subject to the Lease, as of the date hereof.

This Assignment is made together with the benefit of all appurtenant rights and interests, whether or not created or appearing of record.

This Assignment is expressly made subject to the liens of the following instruments, all dated as of September 30, 1987 and recorded where indicated with said Deeds:

a. First Leasehold Mortgage and Security Agreement,
Book 14118, Page 49;

b. First Collateral Assignment of Leases and Rents,
Book 14118, Page 88;

c. Second Leasehold Mortgage and Security Agreement,
Book 14118, Page 102; and

d. Second Collateral Assignment of Lease and Rents,
Book 14118, Page 141;

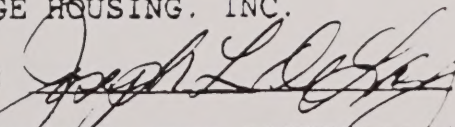
and Partnership and Trustee intend that the liens of said
instruments not merge or dissolve, but instead remain
outstanding and in full force and effect notwithstanding the
execution, delivery, and recording of this Assignment.

IN WITNESS WHEREOF, the undersigned has hereunto set its
seal and caused these presents to be signed as of the 21st day
of February, 1992.

BASILICA ASSOCIATES I
LIMITED PARTNERSHIP

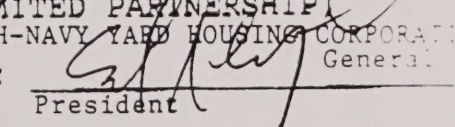
By its only two general
partners:

NAGE HOUSING, INC.

By: 

FISH-NAVY YARD ACQUISITIONS
LIMITED PARTNERSHIP

BY: FISH-NAVY YARD HOUSING CORPORATION, its

By: 

President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

February 25, 1992

Then personally appeared before me this day Joseph Delaney
of NAGE HOUSING, INC., and
acknowledged the foregoing instrument as his/her free act and
deed, as the free act and deed of said corporation, as general
partner of Basilica Associates I Limited Partnership, and as
the free act and deed of said Partnership.

Rachel Lipton

Notary Public

My Commission Expires 8/14/95

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

February 25, 1992

Then personally appeared before me this day Edward J. Lipton
of FISH-NAVY YARD ACQUISITIONS LIMITED
PARTNERSHIP, and acknowledged the foregoing instrument as
his/her free act and deed, as the free act and deed of said
partnership, as general partner of Basilica Associates I
Limited Partnership, and as the free act and deed of Basilica
Associates I Limited Partnership

Rachel Lipton

Notary Public

My Commission Expires

XP-5532/b

